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**JOINT FORCE HEADQUARTERS**  
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OKHRO

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MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Conducting a Lawful Interview

1. An information packet is enclosed to provide managers and supervisors with guidelines on conducting a lawful interview. All interviews will be in accordance with the principles outlined in the enclosure.
2. How the interviewing official conducts an employment interview sets the relationship he or she will have with the applicant if nominated for employment. It is imperative that interviews be conducted in a proper manner.
3. Another area of concern is that managers and supervisors are not documenting the interviews; i.e., there is no evidence of asking each applicant the same questions and noting the applicants' answers. Each interviewing official is required to keep records of every employment interview. These records will reflect the job-related reasons an applicant was nominated over the other applicants.
4. Supervisors and managers at all levels must continually strive to ensure that interviews and hiring practices remain free of discrimination based on race, sex, color, national origin, religion, or non-disqualifying age or disability. The objective of equal opportunity is to ensure fair treatment to all personnel based on merit, fitness, capability, and potential.

FOR THE ADJUTANT GENERAL:

Encl  
as

JAMES A. PAHDOCO  
LTC, AG, OKARNG  
Director, Human Resources

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Special

## CONDUCTING THE LAWFUL EMPLOYMENT INTERVIEW

One of the areas in which agencies are most vulnerable to charges of discrimination is the selection process since the selection process is responsible for more charges of discrimination than any other area of employment practices. Therefore, supervisors must be conscious of and sensitive to areas where even apparently innocent questions asked in good faith could leave an agency open to costly and time-consuming charges of discrimination. One of these areas is the pre-employment interview.

The pre-employment interview is a face-to-face exchange of information which provides the opportunity to evaluate the applicant's motivation, level of interest, and oral communication skills. Of equal importance is the opportunity provided the applicant to obtain information he or she needs to make a decision regarding a career with your agency.

Pre-employment interview questions about the following subjects are regarded as suspect by the Equal Employment Opportunity Commission (EEOC) because such inquiries have traditionally been used to discriminate in ways prohibited by Title VII of the Civil Rights Act of 1964 and other laws. Although questions on the following topics are "suspect", please note that there are no specific questions that are expressly prohibited by Federal EEO laws. In general, **it is important to remember that what usually matters is not the questions themselves, but the uses to which the questions are put.** Also, the way in which the questions are asked could leave an impression on the applicant that he or she is being discriminated against based on sex, race, color, national origin, physical/mental disability, or age.

1. Arrest and conviction records.
2. Garnishment of records. Same as above.
3. Credit references.
4. Marital status.
5. Child care problems.
6. Contraceptive practices.
7. Plans to have children.
8. Unwed motherhood.
9. Age. Usually not permissible unless a law specifically sets age limits (e.g. law enforcement jobs).

10. Education. This has traditionally been a major area of illegal discrimination, especially in the private sector. Questions on this are not discriminatory if the job really requires some specific educational qualifications (e.g., a high school diploma, or a college degree in a specific area).

11. English language requirements/proficiency. Be careful. Cannot bar employment of people with little or no English if fluency in the language is not an important job requirement.

12. Physical requirements. Can only ask questions about physical requirements that are really necessary for and reasonably related to the particular job. Most suspect are height and weight requirements.

13. Experience. In general, nothing wrong about asking applicants about their job experience. Be careful when asking questions about specific experience and skills. Make sure they are necessary for the job. Should be eliminated when the job or skill can be quickly learned. Must eliminate the use of any quality and/or selective ranking factors that disproportionately eliminate candidates from any group.

14. Saturday and Sunday work. Title VII requires that reasonable accommodation be made for “an employee’s or prospective employee’s religious observance or practice without undue hardship on the conduct of the employer’s business.” If Saturday or Sunday work is required, it is desirable to indicate that reasonable effort will be made to accommodate their religious preference.

15. Appearance. Gray area; court decisions have gone both ways. Be careful about employment decisions based on such factors as length and style of hair, dress, and other aspects of appearance if there is any indication they may disproportionately impact on employment on the basis of race, national origin, etc.

## **SHOULD NOTS – NEGATIVE TONE**

You should not play dictator, teacher, or know-it-all.

You should not say or do anything that discourages the applicant from talking freely or that makes him/her hold things back.

You should not lose your temper. You might win the battle but lose the war.

You should not force your personal opinions on the applicant. You are entitled to them of course, but you are not entitled to do anything about them on government time.

You should not flirt. Do not take advantage of an interviewee's friendliness to act as if there is a degree of friendship.

You should not dominate the discussion, or use too many "I's" or "We's" in your approach.

You should not let your habits or patterns of behavior detract from rapport and the tone of the interview. By this we mean personal mannerisms such as tone of voice, repeated verbal expressions, or facial expressions that betray boredom.

You should not inquire into certain areas that are none of your business (marital status, children, religion)

You should not be tricky, clever, or sneaky with your applicant.

You should not indicate your interest in a woman or minority applicant as one whose selection would help improve your EEO picture (it is an insulting suggestion that you would apply different standards).

You should not place undue emphasis on conditions of employment in the hope of discouraging the applicant, i.e., to solicit a declination. It is for the applicant, not the employer, to decide whether or not he/she wants the job based, of course, on a clear explanation of what the conditions are.

## **SHOULD – POSITIVE TONE**

You should be friendly and interested.

You should invite confidence.

You should suggest possibilities rather than impose opinions.

You should be patient – don't rush the interview or the applicant.

You should make few promises. Keep those that you make.

You should be objective in your approach.

You should remember to treat and respect your applicant as a conversational equal at all times.

You should be a good listener.

You should talk about:

- The position, its duties and responsibilities.

- The mission, programs, and achievement of the organization.

- Career opportunities and possibilities for advancement.

- The location and work environment of the position (facilities, equipment, travel requirements, etc.).

- The individual's qualifications: abilities, experience, education, and interests.



### **SUGGESTED QUESTIONS FOR INTERVIEWING**

<b>QUALITY</b>	<b>QUESTIONS</b>	<b>DESIRABLE</b>	<b>UNDESIRABLE</b>	<b>EXPLANATION</b>
<b>CURIOSITY</b>	Did you like school?	Yes. All but some subjects.	No. Couldn't wait to quit and take a job.	Shows whether applicant will try to go on learning or stop when he/she knows enough to just get by.
	Is there a lot you'd still like to learn?	Yes.	No.	Someone unwilling to learn may be a problem.
	How do you feel about asking questions if you don't know something?	Don't mind. How else can I learn?	Rather let it pass. Don't want to look stupid.	Willingness to ask questions is index of desire to learn.
<b>FRIENDLINESS</b>	Do you get along equally well with both men and women?	Yes	No	Too many friends of one sex compared with the other could be an indicator of future problems.
<b>INITIATIVE</b>	Do you like making decisions?	Yes	Rather not. Figure that's what the boss is paid for.	Confidence in own ability to make decisions shows that applicant has initiative, will accept responsibility and can work without constant supervision.
	Do you like doing a whole job yourself?	Yes, as long as I can do it right.	Rather have help – share responsibility.	Someone who likes to do the job will likely see assignments through to a finish without excessive

QUALITY	QUESTIONS	DESIRABLE	UNDESIRABLE	EXPLANATION
INITIATIVE	How closely do you think a good boss should supervise the job?	Tell what he/she wants done and let people do job. Check occasionally but don't breath down your neck.	Watch every step of the way.	The best technicians stand on own feet and require a minimum of supervision.
	If an unfamiliar emergency came up and there was no one around to check with, what would you do?	Do the best I could and explain later.	Do nothing if I'm not sure. Safer just to let it ride and hope for the best.	Indicates applicant can be relied on to act effectively in an emergency, take care of trouble as it come up.
ORDERLINESS	If you have several jobs to do, how do you tackle them?	Line them up – decide which are most important, and do those.	Just start in and tackle whatever I lay my hands on.	Shows ability to organize work in an orderly manner.
	How do you feel about being interrupted to take care of things that suddenly come up?	Don't mind. Would prefer to go on working steadily, but you have to take things as they come.	Get annoyed. Throws me off my stride.	Technicians should be well organized so they can take care of real emergencies with a minimum of delay in their regular work.
	What would you usually do before	Line up work for the	Can't think of	Shows whether applicant plans



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ORIGINALITY	quitting for the day?	next day so I can get off to a good start.	anything. Just go home.	ahead – whether he/she is naturally neat and orderly.
	Do you like to try new things?	Yes	Not particularly. Prefer what I know. No.	Indicates whether applicant is receptive to new ideas.
	Do you enjoy thinking up better ways of doing things?	Yes	No	Indicates whether applicant is likely to make constructive suggestions.
VERSATILITY	Do you like variety – doing a lot of different jobs?	Yes	No	A good technician should be something of an all-around operator but there are certain areas of routine work in every job.
	Do you mind periods of routine?	Don't mind if they're only part of the job. Happens on any job.	Get bored.	
INTEREST IN THE FIELD	What do you think a technician's job involves? (type of work, hours, pay, etc.)	Gives realistic answer. (seems to know pretty well what it's all about)	Don't really know. (shows little understanding of what the job requires.)	It's important to find out why applicant is interested – whether his/her interest is based on solid ground and he/she wants to give it serious consideration.
	Why did you decide to apply for this	Looked at several	Don't really know. A	The answers listed as desirable

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AMBITION	job?	lines of work and thought this one had more to offer.	job's a job, and I need one. Want something to tide me over for a while.	indicate applicant has a good idea of what he/she is doing, will stay with the job long enough to find out if really suited for it and whether to make it a career.
	If you fail at something, what do you do?  Why did you leave your last job?	Try again.  Nobody ever noticed what I did. Dull. No chance to show my stuff, get ahead, etc.	Worry about it. Try to avoid having to do it again.  They pushed me too hard. Always trying to get me to do something I wasn't paid for.	Indicates applicant won't get discouraged, but will keep trying to learn and do better.  Indicates whether he/she is willing to work hard for success, or expects it on a silver platter.